



AF-2143/10

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re. Applicant.: Cory L. Factor
Serial No. 10/053,006
Filed: January 23, 2002
For: METHOD AND APPARATUS FOR PROVIDING CONTENT OVER
A DISTRIBUTED NETWORK
Attorney: Nelson R. Capes
Art Unit No.: 2143
Docket No.: 32938.1
Additional Fees: Charge to Deposit Account 02-3732

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

TRANSMITTAL COVER LETTER

Enclosed for filing please find the following:

1. Fee Transmittal for FY 2005 (1 pg.);
2. Applicant's Appeal Brief Under 37 C.F.R. § 41.37 (9 pgs.);
3. A check in the amount of \$250.00; and
4. Postcard receipt.

Respectfully submitted,

Dated: 4/10/06

By Nelson R. Capes
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CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service as First Class Mail, in an envelope addressed to Mail Stop Appeal Brief – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

By Nelson R. Capes
Date 4/10/06

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<p>Effective on 12/08/2004. See pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).</p> <h2 style="margin: 0;">FEE TRANSMITTAL</h2> <h3 style="margin: 0;">for FY 2005</h3> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p>		<p>Complete if Known</p>													
<p>TOTAL AMOUNT OF PAYMENT (\$) 250.00</p>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">Application Number</td> <td>10/053,006</td> </tr> <tr> <td>Filing Date</td> <td>January 23, 2002</td> </tr> <tr> <td>First Named Inventor</td> <td>Cory L. Factor</td> </tr> <tr> <td>Examiner Name</td> <td>Phuoc H. Nguyen</td> </tr> <tr> <td>Art Unit</td> <td>2143</td> </tr> <tr> <td>Attorney Docket No.</td> <td>32938.1</td> </tr> </table>		Application Number	10/053,006	Filing Date	January 23, 2002	First Named Inventor	Cory L. Factor	Examiner Name	Phuoc H. Nguyen	Art Unit	2143	Attorney Docket No.	32938.1
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Filing Date	January 23, 2002														
First Named Inventor	Cory L. Factor														
Examiner Name	Phuoc H. Nguyen														
Art Unit	2143														
Attorney Docket No.	32938.1														

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : _____

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	Fee(\$)	Small Entity Fee(\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Small Entity

Fee (\$)

Each independent claim over 3 (including Reissues)

50 25

Multiple dependent claims

200 100

Total Claims

Extra Claims

Fee(\$)

Fee Paid (\$)

Multiple Dependent Claims

_____ -20 or HP= _____ x _____ = _____

Fee (\$) **Fee Paid (\$)**

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee(\$)

Fee Paid (\$)

_____ - 3 or HP= _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**

_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)


Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge) : Filing a Brief in support of an Appeal

250.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	37,106	Telephone	612-977-8486
Name (Print/Type)	Nelson R. Capes		Date		4/12/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Re Appellant: Cory L. Factor
Serial No.: 10/053,006
Filed: January 23, 2002
For: METHOD AND APPARATUS FOR PROVIDING CONTENT OVER
A DISTRIBUTED NETWORK
Confirmation No.: 1220
Attorney: Gerald E. Helget
Attorney
Docket No.: 32938.1
Additional Fees: Charge to Deposit Account 023732

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPELLANT'S APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Appellant, by his attorney, submits one copy of this Appeal Brief, pursuant to 37 C.F.R. § 41.37 in further of the Appeal, the notice of which was filed with the United States Patent and Trademark Office on February 9, 2006 from the Final Rejection of claims 1-16 of the above-identified application, as set forth in the Final Office Action mailed on October 19, 2005. Appellant respectfully requests consideration and reversal of the Examiner's rejections of the pending claims.

CERTIFICATE OF MAILING

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04/13/2006 HDESTA1 00000057 10053006

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By *Gerald E. Helget*
Date 4/13/06

I. REAL PARTY IN INTEREST

The real party in interest is Cory L. Factor.

II. RELATED APPEALS AND INTERFERENCES

Applicant is unaware of any related appeals or interferences that may have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

The present application was filed on January 18, 2002 with claims 1-16. A non-final Office Action was mailed May 5, 2005. A Final Office Action was mailed October 19, 2005. Claims 1-16 stand twice rejected, remain pending, and are the subject of the present Appeal.

IV. STATUS OF AMENDMENTS

No amendments have been made since the Final Office Action.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention is a method for providing content in at least one electronic format to a distributed network, said method comprising:

providing the content in the at least one electronic format to a computer (Fig. 1, page 6);

capturing the content as an electronic file on the computer (Fig. 2, page 7);

providing indicia in a separate electronic file for segmenting the electronic file into video segments in an electronic format to the computer (Fig. 2, pages 7-8);

associating the identifying indicia with the electronic file (Fig. 2, page 7-8);

using the indicia to convert the file into video segments in a format suitable for distribution over the distributed network (Fig. 2, page 8); and

providing the file and associated identifying indicia to a server accessible over the distributed network (Fig. 2, page 8).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-16 were rejected as anticipated under 35 U.S.C. § 102(b) by U.S. 6,516,090 (Lennon).

VIII. ARGUMENT

A. Claims 1-16 are not anticipated by Lennon.

A single prior art reference anticipates a claimed invention only if it discloses each and every claim element.¹

1. Separate argument as to claims 1 and 8.

Lennon does not disclose the following claimed elements:

A method for providing content in at least one electronic format to a distributed network.

Lennon is a method of interpreting a digital video signal. (Abstract) There is no disclosure of a distributed network.

providing indicia in a separate electronic file for segmenting the electronic file into video segments in an electronic format to the computer.

The Office Action identifies element 110C of Lennon as providing indicia in a separate electronic file. However, there is no disclosure of a separate electronic file.

associating the identifying indicia with the electronic file.

At Col. 5, lines 39-48, Lennon indicates that identifying indicia (Additional information 110C) is already available in the digital video source input 110, so there is no need to associate such identifying indicia with the electronic file in which the video content has been captured.

using the indicia to convert the file into video segments in a format suitable for distribution over the distributed network.

¹ *Structural Rubber Prod. Co. v. Park Rubber Co.*, 749 F.2d 707, 223 USPQ 1264 (Fed. Cir. 1984)

There is no disclosure in Lennon of the format into which the video segments are converted, and specifically no disclosure of a format suitable for distribution over the distributed network.

providing the file and associated identifying indicia to a server accessible over the distributed network.

There is no disclosure in Lennon of any such step. Lennon is a method of interpreting a digital video signal (Abstract), not a method of distributing video segments over a distributed network. The processes of Lennon take place entirely within a single computer (Fig. 1); there is no server involved.

2. Separate argument as to claims 3, 10, and 14.

There is no disclosure in Lennon of providing hypertext links in the identifying indicia. Because the video content of Lennon is not intended to be distributed over the internet, there is no provision for hyperlinks.

3. Separate argument as to claims 4, 6, 11, and 13.

There is no disclosure in Lennon of a distributed network or internet or hypertext links. Lennon is a method of interpreting a digital video signal (Abstract), not a method of distributing video segments over a distributed network.

In regard to the claims not specifically argued separately, Appellant contends that they contain elements of limitations beyond an allowable independent claim and are also allowable.

In view of the foregoing, Appellant asks the Board to overturn the Examiner's rejections and allow all claims.

Respectfully submitted,

Dated: 4/10/06

By Nelson R. Capes
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Telephone: (612) 977-8486

CLAIMS APPENDIX

The claims on appeal:

1. (rejected) A method for providing content in at least one electronic format to a distributed network, said method comprising:

providing the content in the at least one electronic format to a computer;

capturing the content as an electronic file on the computer;

providing indicia in a separate electronic file for segmenting the electronic file into video segments in an electronic format to the computer;

associating the identifying indicia with the electronic file;

using the indicia to convert the file into video segments in a format suitable for distribution over the distributed network; and

providing the file and associated identifying indicia to a server accessible over the distributed network.

2. (original) The method of claim 1 wherein the content comprises a live video feed.

3. (rejected) The method of claim 2 wherein the identifying indicia comprises metadata including start and stop times and hypertext links.

4. (rejected) The method of claim 1 wherein the distributed network is the internet and the identifying indicia comprises metadata including start and stop times and hypertext links.

5. (original) The method of claim 1 wherein the content includes a live video feed and at least additional content in at least one additional format from the group including text, audio, or graphics.

6. (original) The method of claim 5 wherein the distributed network is the internet and the identifying indicia comprises metadata including hypertext links.

7. (original) The method of claim 1 wherein the content is a television news broadcast and includes information in video format and at least additional content in at least one additional format from the group including text, audio, or graphics.

8. (rejected) A computer program stored in electronic format for providing content to a distributed network, said program being provided for being loaded onto a computer and said program:

receiving the content in the at least one electronic format;

capturing the content as an electronic file on the computer;

providing indicia in a separate electronic file for segmenting the electronic file into video segments in an electronic format;

associating the identifying indicia with the electronic file;

using the indicia to convert the file to a format suitable for distribution over the distributed network; and

providing the file and associated identifying indicia to a server accessible over the distributed network.

9. (original) The program of claim 8 wherein the content comprises a live video feed.

10. (rejected) The program of claim 9 wherein the identifying indicia comprises metadata including start and stop times and hypertext links.

11. (rejected) The program of claim 8 wherein the distributed network is the internet and the identifying indicia comprises metadata including start and stop times and hypertext links.

12. (original) The program of claim 8 wherein the content includes a live video feed and at least additional content in at least one additional format from the group including text, audio, or graphics.

13. (original) The program of claim 12 wherein the distributed network is the internet and the identifying indicia comprises metadata including hypertext links.

14. (original) The program of claim 12 wherein the identifying indicia comprises metadata including hypertext links.

15. (original) The program of claim 14 wherein the distributed network is the internet.

16. (original) The program of claim 8 wherein the content is a television news broadcast and includes information in video format and at least additional content in at least one additional format from the group including text, audio, or graphics.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.